

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

19-CR-27-FPG

v.

JAMES TIMPANARO,

**STATEMENT OF DEFENDANT WITH
RESPECT TO SENTENCING FACTORS**

Defendant.

FONDA DAWN KUBIAK, affirms under penalty of perjury that:

I am an Assistant Federal Public Defender in the Western District of New York and represent the Defendant, Morgan Fallon, in the above-entitled action brought by the United States of America. I make this affirmation in accordance with the requirements of Section 6A1.2 of the Sentencing Guidelines, "Statement of Defendant with Respect to Sentencing Factors," as promulgated by the United States Sentencing Commission.

In accordance with those rules, it is hereby stated on behalf of the Defendant, that I have reviewed the Presentence Report and have discussed the same with James Timpanaro. Mr. Timpanaro does not dispute any of the calculations contained in the report.

The Defendant requests that the Court advise him about all information which it will consider in imposing sentence which negatively impacts on the Defendant and about which the Defendant has no prior notice from the Presentence Report, including, but not limited to, *ex parte* communications with United States Probation Officers and victims. *United States v. Mueller*,

168 F.3d 186 (5th Cir. 1999); *United States v. Corace*, 146 F.3d 51 (2d Cir. 1998); *United States v. Rivera*, 96 F.3d 41 (2d Cir. 1996).

DATED: Buffalo, New York, October 22, 2019.

Respectfully submitted,

/s/ Fonda Dawn Kubiak

Fonda Dawn Kubiak
Assistant Federal Public Defender
Federal Public Defender's Office
300 Pearl Street, Suite 200
Buffalo, New York 14202
(716) 551-3341, (716) 551-3346 (Fax)
fonda_kubiak@fd.org
Counsel for Defendant James Timpanaro

TO: Joel L. Violanti
Assistant United States Attorney

Alexandra G. Piskorz
United States Probation Officer